

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

---

In re:

Kathleen Elaine Carter

Debtor(s).

**OBJECTION TO  
CONFIRMATION**

**CASE #: 18-22970-rdd  
CHAPTER 13**

---

I, Aleksandra K. Fugate, Esq., an attorney duly licensed to practice law in the State of New York and admitted in the Southern District of New York, affirm the following to be true, under penalty of perjury:

1. I am an attorney with the firm of Woods Oviatt Gilman LLP, attorneys for the Secured Creditor, Wells Fargo Bank, N.A. ("Secured Creditor").
2. Secured Creditor is the Holder of a Note and Mortgage secured by real property commonly known as 30 Greendale Avenue, Mount Vernon, NY 10553; which is identified by Secured Creditor with a loan number bearing the last four digits of 5307.
3. This Affirmation is submitted for the purpose of objecting to confirmation of the Chapter 13 Plan proposed by Kathleen Elaine Carter (the "Debtor").
4. The Debtor's proposed Plan fails to provide for payment of pre-petition arrears to Secured Creditor. However, the Proof of Claim to be filed on behalf of Secured Creditor asserts pre-petition arrears in the approximate amount of \$212,192.32. Accordingly, Debtor's proposed plan lists incorrect pre-petition arrears.
5. The Debtor's proposed plan also fails to provide for post-petition payments to Secured Creditor. As the Note is not set to mature until May 1, 2043, post-petition payments will be necessary to keep Debtor from default post-petition. The Proof of Claim to be filed on behalf of Secured Creditor asserts the current monthly mortgage payment in the approximate amount of \$3,945.62.

6. The Debtor's proposed Plan is also seeking to enter into Loss Mitigation with Secured Creditor; however the proposed Plan does not take into consideration how the loan will be treated if Loss Mitigation is unsuccessful, nor does it provide for adequate protection payments while Loss Mitigation is pending.

**WHEREFORE**, the Secured Creditor hereby requests by virtue of the foregoing, confirmation of the Debtor's proposed Chapter 13 Plan be denied pursuant to 11 U.S.C. §1325.

Dated: 07/31/2018

/s/ Aleksandra K. Fugate, Esq.  
Aleksandra K. Fugate, Esq.  
Woods Oviatt Gilman LLP  
Attorneys for Secured Creditor  
700 Crossroads Building  
2 State Street  
Rochester, NY 14614  
855-227-5072

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**IN RE:**

**CASE NO: 18-22970-rdd**

**KATHLEEN ELAINE CARTER**

**DEBTOR(S).**

**AFFIDAVIT OF  
SERVICE BY MAIL**

I, Kevin P. Hoenig, being duly sworn, deposes and says: Deponent is not a party to this action, is over 18 years of age, and resides in Rochester, New York. On July 31, 2018 deponent served an Objection to Confirmation upon:


Anthony M Vassallo  
Law Office of Anthony M. Vassallo  
305 Fifth Avenue  
Suite 1B  
Brooklyn, NY 11215

Kathleen Elaine Carter  
30 Greendale Avenue  
Mount Vernon, NY 10553


Krista M. Preuss  
Chapter 13 Standing Trustee  
399 Knollwood Road  
White Plains, NY 10603

United States Trustee  
Office of the United States Trustee  
U.S. Federal Office Building  
201 Varick Street, Room 1006  
New York, NY 10014

By deposit a true copy, in a postpaid properly addressed envelope, in a post office box under the exclusive care and custody of the United States Postal Service at Rochester, New York

  
Kevin P. Hoenig

Sworn to before me this  
31st day of July 2018.

  
Notary Public

**KASIE MARIE CASH**  
Notary Public, State of New York  
Qualified in Monroe County  
No. 01CA6352419  
Commission Expires December 27, 2020